

**IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA
PLAINTIFF

V.

JOEL A. SMITHERS
DEFENDANT

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CASE NO. : 1:17-CR-027-JPJ-PMS

MOTION TO SUPPRESS

Comes Now the Defendant, Joel A. Smithers, by and through counsel and moves
this Honorable Court, to exclude such evidence as stated below for the reason stated
therein:

1. The Defendant has reason to believe that the Government intends to introduce evidence consisting of signed statements with the Health Professions Monitoring Program (hereafter “HPMP”) regarding the Defendant and the status of his license from August 2015 until May 3, 2016.
2. HPMP provides services to any and all healthcare professionals who may be suffering from a physical condition, mental disorder, or substance abuse issue. It is a regulatory agency but it does not have the power to issue or suspend a doctor’s medical license on its own. Such a suspension would have to come from the Department of Health Professions.
3. Dr. Smithers was granted his license on August 20, 2015. His license was never suspended by the Department of Health Professions in Virginia during the time he wrote prescriptions covered in the indictment.

4. Dr. Joel Smithers still holds a valid West Virginia license, which was granted to him on September 17, 2014 and his DEA privileges were never suspended during the period in question.
5. Such evidence would be irrelevant and highly prejudicial, with little to no probative value in and should be excluded by Federal Rule of Evidence 403. It would also be extremely confusing and misleading to the jury.
6. Furthermore, some of this evidence has already been suppressed by this court and failing to introduce documents not admissible while others are would only seek to confuse the jury.

Wherefore, the Defendant, Joel A. Smithers, respectfully requests that such evidence should be suppressed and deemed inadmissible.

RESPECTUFLLY SUBMITTED

JOEL A. SMITHERS
BY COUNSEL

BY: /s/Don M. Williams, Jr.

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CERTIFICATE OF SERVICE

I, Don M. Williams, Jr., hereby certify that I have this the 24th day of April, 2019, electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such filing to the Assistant United States Attorney.

/s/ Don M. Williams, Jr.
DON M. WILLIAMS, JR.